UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CRIMINAL NO. 4:17-CR-389
	§	
PARVEZ QURESHI, M.D.,	§	
	§	
Defendant.	§	
	§	

INSTRUCTIONS TO THE JURY

The following instructions were presented to the jury on the 15th day of October, 2021.

SIGNED this 15th day of October, 2021.

Kenneth M. Hoyt
United States District Judge

INTRODUCTION TO FINAL INSTRUCTIONS

MEMBERS OF THE JURY:

In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to decide what evidence is proper for your consideration. It is also my duty at the end of the trial to explain to you the rules of law that you must follow and apply in arriving at your verdict.

First, I will give you some general instructions which apply in every case, for example, instructions about burden of proof and how to judge the believability of witnesses. Then I will give you some specific rules of law about this particular case. And finally, I will explain to you the procedures you should follow in your deliberations.

DUTY TO FOLLOW INSTRUCTIONS

You, as jurors, are the judges of the facts. But in determining what actually happened—that is, in reaching your decision as to the facts—it is your sworn duty to follow all of the rules of law as I explain them to you.

You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences.

It is also your duty to base your verdict solely upon the evidence, without prejudice or sympathy. That was the promise you made and the oath you took before being accepted by the parties as jurors, and they have the right to expect nothing less.

PRESUMPTION OF INNOCENCE, BURDEN OF PROOF, REASONABLE DOUBT

The indictment or formal charge against a defendant is not evidence of guilt. Indeed, the defendant is presumed by the law to be innocent. The defendant begins with a clean slate. The law does not require a defendant to prove his innocence or produce any evidence at all, and no inference whatsoever may be drawn from the election of a defendant not to testify.

The government has the burden of proving the defendant guilty beyond a reasonable doubt, and if it fails to do so, you must acquit the defendant. While the government's burden of proof is a strict or heavy burden, it is not necessary that the defendant's guilt be proven beyond all possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning the defendant's guilt.

A "reasonable doubt" is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in the case. Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in making the most important decisions of your own affairs.

EVIDENCE—EXCLUDING WHAT IS NOT EVIDENCE

As I told you earlier, it is your duty to determine the facts. To do so, you must consider only the evidence presented during the trial. Evidence is the sworn testimony of the witnesses, including stipulations, and the exhibits. The questions, statements, objections, and arguments made by the lawyers are not evidence.

The function of the lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing to call your attention to certain facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your own recollection and interpretation of the evidence that controls in the case. What the lawyers say is not binding upon you.

During the trial I sustained objections to certain questions and exhibits. You must disregard those questions and exhibits entirely. Do not speculate as to what the witness would have said if permitted to answer the question or as to the contents of an exhibit. Also, certain testimony or other evidence has been ordered removed from the record and you have been instructed to disregard this evidence. Do not consider any testimony or other evidence which has been removed from your consideration in reaching your decision. Your verdict must be based solely on the legally admissible evidence and testimony.

Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own verdict.

EVIDENCE—INFERENCES: DIRECT AND CIRCUMSTANTIAL

In considering the evidence, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts which have been established by the evidence.

Do not be concerned about whether evidence is "direct evidence" or "circumstantial evidence." You should consider and weigh all of the evidence that was presented to you.

"Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness. "Circumstantial evidence" is proof of a chain of events and circumstances indicating that something is or is not a fact.

The law makes no distinction between the weight to be given either direct or circumstantial evidence. But the law requires that you, after weighing all of the evidence, whether direct or circumstantial, be convinced of the guilt of the defendant beyond a reasonable doubt before you can find him guilty.

CREDIBILITY OF WITNESSES

I remind you that it is your job to decide whether the government has proven the guilt of the defendant beyond a reasonable doubt. In doing so, you must consider all of the evidence. This does not mean, however, that you must accept all of the evidence as true or accurate.

You are the sole judges of the credibility or "believability" of each witness and the weight to be given to the witness's testimony. An important part of your job will be making judgments about the testimony of the witnesses, including the defendant, who testified in this case. You should decide whether you believe all, some part, or none of what each person had to say, and how important that testimony was. In making that decision I suggest that you ask yourself a few questions: Did the witness impress you as honest? Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome of the case? Did the witness have any relationship with either the government or the defense? Did the witness seem to have a good memory? Did the witness clearly see or hear the things about which he or she testified? Did the witness have the opportunity and ability to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses? These are a few of the considerations that will help you determine the accuracy of what each witness said.

Your job is to think about the testimony of each witness you have heard and decide how much you believe of what each witness had to say. In making up your mind and reaching a verdict, do not make any decisions simply because there were more witnesses on one side than on the other. Do not reach a conclusion on a particular point just because there were more witnesses testifying for one side on that point. You will always bear in mind that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

EXPERT OPINION TESTIMONY

During the trial you heard the testimony of Dr. Mehran Rahbar, who expressed opinions regarding the medical treatment of pain by prescribed opioids and other measures, as well as the review of certain patient files. You also heard the testimony of Michael Petron, who expressed opinions regarding a statistical review of a sample of patient files.

If scientific, technical, or other specialized knowledge might assist the jury in understanding the evidence or in determining a fact in issue, a witness qualified by knowledge, skill, experience, training, or education, may testify and state an opinion concerning such matters.

Merely because such a witness has expressed an opinion does not mean, however, that you must accept this opinion. You should judge such testimony like any other testimony. You may accept it or reject it and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, and all other evidence in the case.

ON OR ABOUT

You will note that the Superseding Indictment charges that the offenses were committed on or about a specified date. The government does not have to prove that the alleged crime was committed on an exact date, so long as the government proves beyond a reasonable doubt that the defendant committed the alleged crime on a date reasonably near the dates stated in each of the individual counts in the Superseding Indictment.

CHARACTER EVIDENCE

Where a defendant has offered evidence of good general reputation for truth and veracity and honesty and integrity, you should consider such evidence along with all the other evidence in the case.

Evidence of a defendant's character, inconsistent with those traits of character ordinarily involved in the commission of the crime charged, may give rise to a reasonable doubt, since you may think it improbable that a person of good character with respect to those traits would commit such a crime.

IMPEACHMENT BY PRIOR INCONSISTENCIES

The testimony of a witness may be discredited by showing that the witness testified falsely, or by evidence that at some other time the witness said or did something, or failed to say or do something, which is inconsistent with the testimony the witness gave at this trial.

Earlier statements of a witness were not admitted in evidence to prove that the contents of those statements are true. You may not consider the earlier statements to prove that the content of an earlier statement is true; you may only use earlier statements to determine whether you think the earlier statements are consistent or inconsistent with the trial testimony of the witness and therefore whether they affect the credibility of that witness.

If you believe that a witness has been discredited in this manner, it is your exclusive right to give the testimony of that witness whatever weight you think it deserves.

WITNESS'S USE OF ADDICTIVE DRUGS

The testimony of someone who is shown to have used addictive drugs during the period of time about which the witness testified must always be examined and weighed by the jury with greater care and caution than the testimony of ordinary witnesses.

You should never convict any defendant upon the unsupported testimony of such a witness unless you believe that testimony beyond a reasonable doubt.

CAUTION—CONSIDER ONLY CRIME CHARGED

You are here to decide whether the government has proven beyond a reasonable doubt that the defendant is guilty of the crime charged. The defendant is not on trial for any act, conduct, or offense not alleged in the superseding indictment. Neither are you called upon to return a verdict as to the guilt of any other person or persons not on trial as a defendant in this case, except as you are otherwise instructed.

CAUTION—PUNISHMENT

If a defendant is found guilty, it will be my duty to decide what the punishment will be. You should not be concerned with punishment in any way. It should not enter your consideration or discussion.

SINGLE DEFENDANT—MULTIPLE COUNTS

A separate crime is charged in each count in the Superseding Indictment. Each count, and the evidence pertaining to it, should be considered separately. The fact that you may find the defendant guilty or not guilty as to one of the crimes charged should not control your verdict as to any other.

SUMMARIES AND CHARTS RECEIVED IN EVIDENCE

Certain charts and summaries have been received into evidence. They should be considered like any other evidence in the case. You should give them only such weight as you think they deserve.

SUMMARIES AND CHARTS NOT RECEIVED IN EVIDENCE

Certain charts, transcripts, and summaries have been shown to you solely as an aid to help explain the facts disclosed by evidence (testimony, books, records, and other documents) in the case. These charts and summaries are not admitted evidence or proof of any facts. You should determine the facts from the evidence that is admitted.

"KNOWINGLY"—TO ACT

The word "knowingly," as that term has been used from time to time in these instructions, means that the act was done voluntarily and intentionally, not because of mistake or accident.

DELIBERATE IGNORANCE

You may find that a defendant had knowledge of a fact if you find that the defendant deliberately closed his eyes to what would otherwise have been obvious to him. While knowledge on the part of the defendant cannot be established merely by demonstrating that the defendant was negligent, careless, or foolish, knowledge can be inferred if the defendant deliberately blinded himself to the existence of a fact.

CONTROLLED SUBSTANCES—CONSPIRACY (21 U.S.C. § 846) – COUNT 1

Title 21, United States Code, Section 846 makes it a crime for anyone to conspire with someone else to commit a violation of certain controlled substances laws of the United States. In this case, the defendant is charged with conspiring to commit a violation of Title 21, United States Code, Section 841(a)(1), which makes it a crime for any person to knowingly or intentionally distribute or dispense a controlled substance not for a legitimate medical purpose or not in the course of professional practice.

A "conspiracy" is an agreement between two or more persons to join together to accomplish some unlawful purpose. It is a kind of "partnership in crime" in which each member becomes the agent of every other member.

For you to find the defendant guilty of this crime, you must be convinced that the government has proven each of the following beyond a reasonable doubt:

First: That two or more persons, directly or indirectly, reached an agreement to unlawfully distribute or dispense a controlled substance not for a legitimate medical purpose or not in the usual course of professional practice;

Second: That the defendant knew of the unlawful purpose of the agreement; and

Third: That the defendant joined in the agreement willfully; that is with the intent to further its unlawful purpose.

Hydrocodone or "Norco" is a controlled substance. Carisoprodol or "Soma" is a controlled substance.

A controlled substance is "distributed" if it is delivered or transferred.

"Dispensing" a controlled substance includes writing a prescription.

One may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators. If a defendant understands the unlawful nature of a plan or scheme and knowingly and intentionally joins in that plan or scheme on one occasion, that is sufficient to convict him for conspiracy even though the defendant had not participated before and even though the defendant played only a minor part.

The government need not prove that the alleged conspirators entered into any formal agreement, nor that they directly stated between themselves all the details of the scheme. Similarly, the government need not prove that all of the details of the scheme alleged in the indictment were actually agreed upon or carried out, nor must it prove that all of the persons alleged to have been members of the conspiracy were such, or that the alleged conspirators actually succeeded in accomplishing their unlawful objectives.

Mere presence at the scene of an event, even with knowledge that a crime is being committed, or the mere fact that certain persons may have associated with each other and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy. A person who has no knowledge of a conspiracy, but who happens to act in a way that advances some purpose of a conspiracy, does not thereby become a conspirator.

UNLAWFULLY DISTRIBUTING OR DISPENSING CONTROLLED SUBSTANCES (21 U.S.C. § 841(a)(1)) – COUNTS 2, 3, 4, AND 5

Title 21, United States Code, Section 841(a)(1) makes it a crime for any person to knowingly and intentionally distribute or dispense a controlled substance not for a legitimate medical purpose or not in the usual course of professional practice.

For you to find the defendant guilty of this crime, you must be convinced that the government has proven each of the following beyond a reasonable doubt:

First: That the defendant distributed or dispensed a controlled substance;

Second: That the defendant did so knowingly and intentionally; and

Third: That the defendant did so other than for a legitimate medical purpose or in the usual course of professional practice.

Hydrocodone or "Norco" is a controlled substance. Carisoprodol or "Soma" is a controlled substance.

A controlled substance is "distributed" if it is delivered or transferred.

"Dispensing" a controlled substance includes writing a prescription.

A controlled substance is prescribed by a physician for a legitimate medical purpose or in the usual course of professional practice, and therefore lawfully, if the substance is prescribed in good faith. A physician must act in a manner that is in accordance with the standard of care set forth in the medical community or must have a good faith basis for a deviation from the standard of care. "Good faith" in this context means an honest effort to prescribe for a patient's condition in accordance with the standards of medical practice generally recognized or accepted

in the United States. In considering whether a physician prescribed a controlled substance for a legitimate medical purpose or in the usual course of professional practice, you should consider all of the physician's actions and the circumstances surrounding them.

AIDING AND ABETTING (18 U.S.C. § 2) – COUNTS 2, 3, 4, AND 5

The guilt of a defendant in a criminal case may be established without proof that the defendant personally did every act constituting the offense alleged. The law recognizes that, ordinarily, anything a person can do for himself may also be accomplished by him through the direction of another person as his agent, or by acting in concert with, or under the direction of, another person or persons in a joint effort or enterprise.

If another person is acting under the direction of the defendant or if the defendant joins another person and performs acts with the intent to commit a crime, then the law holds the defendant responsible for the acts and conduct of such other persons just as though the defendant had committed the acts or engaged in such conduct.

Before any defendant may be held criminally responsible for the acts of others, it is necessary that the accused deliberately associate himself in some way with the crime and participate in it with the intent to bring about the crime.

Of course, mere presence at the scene of a crime and knowledge that a crime is being committed are not sufficient to establish that a defendant either directed or aided and abetted the crime unless you find beyond a reasonable doubt that the defendant was a participant and not merely a knowing spectator.

In other words, you may not find the defendant guilty unless you find beyond a reasonable doubt that every element of the offense as defined in the instructions above was committed by some person or persons, and that the defendant voluntarily participated in its commission with the intent to violate the law.

For you to find the defendant guilty of this crime, you must be convinced that the government has proven each of the following beyond a reasonable doubt:

First: That the offense of unlawfully distributing or dispensing a controlled substance was committed by some person;

Second: That the defendant associated with the criminal venture;

Third: That the defendant purposefully participated in the criminal venture; and

Fourth: That the defendant sought by action to make that venture successful.

"To associate with the criminal venture" means that the defendant shared the criminal intent of the principal. This element cannot be established if the defendant had no knowledge of the principal's criminal venture.

"To participate in the criminal venture" means that the defendant engaged in some affirmative conduct designed to aid the venture or assist the principal of the crime.

VERDICT FORM WITH SPECIAL INTERROGATORIES WITH RESPECT TO SUBSTANCE IDENTITY

If you find the defendant guilty of any of the offenses charged, you must answer some questions, called jury interrogatories, to decide whether the offense involved certain controlled substances. Do not answer these jury interrogatories until after you have reached your verdict. If you find that the government has not proven the defendant guilty of a count, then you do not need to answer the interrogatory for that count.

If you find the defendant guilty, then in answering these interrogatories, as in deciding your verdict, you must be unanimous, and in order to find that the offense involved a certain controlled substance, you must all be satisfied that the government proved the identity beyond a reasonable doubt.

DUTY TO DELIBERATE

To reach a verdict, whether it is guilty or not guilty, all of you must agree. Your verdict must be unanimous on each count of the indictment.

It is your duty to consult with one another and to deliberate in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. Do not let any bias, sympathy, or prejudice that you may feel toward one side or the other influence your decision in any way. In particular, do not let racial, ethnic, national origin, or other bias influence your decision in any way. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs as to the weight or effect of the evidence solely because the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are judges—judges of the facts. Your duty is to decide whether the government has proven the defendant guilty beyond a reasonable doubt.

When you go to the jury room, the first thing that you should do is select one of your number as your foreperson, who will help to guide your deliberations and will speak for you here in the courtroom.

A verdict form has been prepared for your convenience.

The foreperson will write the unanimous answer of the jury in the spaces provided for each count of the indictment, either guilty or not guilty. At the conclusion of your deliberations, the foreperson should date and sign the verdict.

If you need to communicate with me during your deliberations, the foreperson should write the message and give it to the court security officer. I will either reply in writing or bring you back into the court to answer your message.

Bear in mind that you are never to reveal to any person, not even to the court, how the jury stands, numerically or otherwise, on any count of the indictment, until after you have reached a unanimous verdict.

You may now retire to the jury room to begin your deliberations

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	§	4:17-CR-389
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	§	
Defendant.	§	
	§	

VERDICT OF THE JURY

We the Jury unanimously find:

The defendant **PARVEZ QURESHI, M.D.**:

Count 1: Controlled Substances—Conspiracy
(21 U.S.C. § 846)

✓ Guilty _____ Not Guilty

If you find Parvez Qureshi "Not Guilty," please proceed to Count 2 and do not answer Jury Interrogatory 1. If you find Parvez Qureshi "Guilty," please answer Jury Interrogatory 1 and then proceed to Count 2.

Jury Interrogatory 1: Do you unanimously find that the government proved beyond a reasonable doubt that the mixture or substance(s) contained the following? *(check all that apply)*

✓ Hydrocodone (also known as Norco)
✓ Carisoprodol (also known as Soma)

Count 2: Unlawfully Distributing or Dispensing Controlled Substances to Somchai Yomsam on or about March 21, 2015 (21 U.S.C. § 841(a)(1))

✓ Guilty _____ Not Guilty

If you find Parvez Qureshi "Not Guilty," please proceed to Count 3 and do not answer Jury Interrogatory 2. If you find Parvez Qureshi "Guilty," please answer Jury Interrogatory 2 and then proceed to Count 3.

Jury Interrogatory 2: Do you unanimously find that the government proved beyond a reasonable doubt that the mixture or substance(s) contained the following? *(check all that apply)*

✓ Hydrocodone (also known as Norco)
✓ Carisoprodol (also known as Soma)

Count 3: Unlawfully Distributing or Dispensing Controlled Substances to Gregory Reescano on or about March 21, 2015 (21 U.S.C. § 841(a)(1))

✓ Guilty _____ Not Guilty

If you find Parvez Qureshi "Not Guilty," please proceed to Count 4 and do not answer Jury Interrogatory 3. If you find Parvez Qureshi "Guilty," please answer Jury Interrogatory 3 and then proceed to Count 4.

Jury Interrogatory 3: Do you unanimously find that the government proved beyond a reasonable doubt that the mixture or substance(s) contained the following? *(check all that apply)*

✓ Hydrocodone (also known as Norco)
✓ Carisoprodol (also known as Soma)

Count 4: Unlawfully Distributing or Dispensing Controlled Substances to Susan Johnson on or about March 21, 2015
(21 U.S.C. § 841(a)(1))

✓ Guilty _____ Not Guilty

If you find Parvez Qureshi "Not Guilty," do not answer Jury Interrogatory 4. If you find Parvez Qureshi "Guilty," please answer Jury Interrogatory 4 and then proceed to Count 5.

Jury Interrogatory 4: Do you unanimously find that the government proved beyond a reasonable doubt that the mixture or substance(s) contained the following? *(check all that apply)*

✓ Hydrocodone (also known as Norco)
✓ Carisoprodol (also known as Soma)

Count 5: Unlawfully Distributing or Dispensing Controlled Substances to Seneca Roel on or about March 19, 2015
(21 U.S.C. § 841(a)(1))

✓ Guilty _____ Not Guilty

If you find Parvez Qureshi "Not Guilty," please proceed to Count 5 and do not answer Jury Interrogatory 5. If you find Parvez Qureshi "Guilty," please answer Jury Interrogatory 5.

Jury Interrogatory 5: Do you unanimously find that the government proved beyond a reasonable doubt that the mixture or substance(s) contained the following? *(check all that apply)*

✓ Hydrocodone (also known as Norco)
✓ Carisoprodol (also known as Soma)

Dated: 10/18/2021 Signed: _____
/s/ Jury Foreperson